

**EVALUATION OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED ON  
BEHALF OF EVERGREEN HEALTHCARE PROPOSING TO EXTEND A  
CONDITION ATTACHED TO CERTIFICATE OF NEED #1290**

**PROJECT DESCRIPTION**

King County Public Hospital District #2 dba Evergreen Healthcare (EH) is a public hospital located at 12040 Northeast 128<sup>th</sup> Street in the city of Kirkland within King County. EH is a provider of Medicare and Medicaid services to the residents of Kirkland and surrounding areas. The hospital is currently licensed for 227 acute care beds and has 17 skilled nursing beds banked under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). EH also holds a three-year accreditation from the Joint Commission on Accreditation of Healthcare Organizations, and is designated as a level IV trauma hospital. EH also owns and operates a Medicare certified/Medicaid eligible home health agency, a Medicare certified/Medicaid eligible hospice agency, and a Medicare certified/Medicaid eligible hospice care center. [source: data provided by DOH Office of Health Care Survey, Office of Emergency Medical and Trauma Prevention, and CN historical files]

By way of background, on July 20, 1989, EH was issued Certificate of Need (CN) #991 approving the establishment of a 15-bed inpatient hospice facility. At that time, the department had not established separate licensure for inpatient hospice beds; therefore, the 15 beds were licensed as acute care beds.<sup>1</sup> When executing CN #991, EH appropriately increased its licensed acute care beds by 15, resulting in an increase in its licensed bed capacity in 1989 from 134 to 149. Under CN #991, EH established its hospice care center. Condition #1 attached to CN #991 stated:<sup>2</sup>

*“The 15 bed inpatient hospice beds can only be used for hospice care services.”*

[source: CN historical files]

On July 28, 2004, EH was issued CNs #1289 and #1290. CN #1289 approved a change in licensure status for the 15 beds associated with hospice services; specifically the 15 beds would be licensed under the appropriate hospice care center licensure. On October 31, 2005, the Certificate of Need Program acknowledged that EH had established a 15-bed hospice care center and had obtained the appropriate licensure for the facility. As a result, the project authorized under CN #1289 was complete.

CN #1290 removed the condition attached to CN #991. Removal of the condition did not change the number of acute care beds licensed at the hospital, rather it allowed all 227 licensed acute care beds to be used for acute care services.

At the time that EH submitted the application resulting in the issuance of CN #1290, EH was in the early planning and development stages of a large construction project at the hospital. The space that would accommodate the 15 beds to be used for acute care services was part of the larger construction project. The larger project involved construction of a new 6-9 story patient

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<sup>1</sup> Separate licensure for hospice care center beds was established in October 2002.

<sup>2</sup> CN #991 has a total of three conditions; the remaining two conditions are related to the rates and revenues of the hospice program.

tower with up to 192 bed spaces that would provide additional ancillary services and acute care bed spaces. EH's intent is to redistribute acute care beds from older areas of the hospital into the new tower, and the 15 acute care beds would take up one-half of a floor. The timeline within the initial application stated EH anticipated beginning architectural designs January 2005, beginning construction of the tower approximately December 2005, obtaining licensure for the 15 acute care beds December 2006, and providing acute care services in the additional beds by the end of January 2007.

As previously stated, CN #1290 was issued to EH approving the project. A condition attached to CN #1290 stated:

*Evergreen Hospital Medical Center<sup>3</sup> anticipates providing acute care services in the 15 additional beds by the end of January 2007. If the project is not complete by January 31, 2007, any remaining bed authorization not meeting licensing requirements shall be forfeited.*

[source: CN #1290]

The intent of the above condition was to ensure that EH would continue to move forward with the construction project as described in the initial application, complete the space that would house the 15 acute care beds, and begin providing acute care services in the 15 beds under a timely schedule.

On July 28, 2006, EH submitted this application proposing to amend CN #1290 by extending the timeline associated with the condition above. EH states that delays in the construction schedule have caused the project to be behind schedule. The delays are related to the two major factors restated below:

- A requirement by the City of Kirkland to complete negotiations with Sound Transit to include a transit center on the hospital campus, which resulted in a four week delay in construction; and
- 2005 Hurricane Katrina which delayed shipments for the project and caused a temporary construction worker shortage.

Additionally, EH states the project has also experienced minor delays including adverse weather, miscommunication, and difficulty obtaining and coordinating supplies and equipment. These delays have resulted in the project becoming about 65 days behind schedule. The amendment application further states EH recaptured approximately 10 of those days, resulting in the project being approximately 55 days behind schedule. [source: Application, pp6-7]

Within this amendment application, EH requests that the condition be modified to allow EH until July 31, 2007, to complete the project and begin providing acute care services in the 15 beds.

CN #1290 was issued with an approved capital cost of \$1,224,544. EH states that the change in timeline does not affect the capital costs of the project. [source: Application, cover letter; August 21, 2006, supplemental information, p1]

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<sup>3</sup> Now known as Evergreen Healthcare.

## **APPLICABILITY OF CERTIFICATE OF NEED LAW**

This project is subject to review under WAC 246-310-570(1)(d) because EH requests to modify a condition attached to CN #1290.

## **APPLICATION CHRONOLOGY**

April 24, 2006	Letter of Intent submitted
July 28, 2006	Application submitted
July 29, 2006 through	Department's Pre-Review Activities
August 29, 2006	<ul style="list-style-type: none"><li>• 1<sup>st</sup> screening activities and responses</li></ul>
August 30, 2006	Department Begins Review of the Amendment Application
	<ul style="list-style-type: none"><li>• public comments accepted throughout review</li></ul>
	Reviewed under expedited review timeline; no public hearing conducted
September 19, 2006	End of Public Comment <sup>4</sup>
October 4, 2006	Rebuttal Documents Submitted to Department <sup>5</sup>
October 24, 2006	Department's Anticipated Decision Date
October 16, 2006	Department's Actual Decision Date

## **AFFECTED PERSONS**

Throughout the review of this project, no entities sought and received affected person status as defined in WAC 246-310-010.

## **SOURCE INFORMATION REVIEWED**

- Evergreen Healthcare's Certificate of Need Application submitted July 28, 2006
- Evergreen Healthcare's supplemental information dated August 21, 2006
- Licensing and/or survey data provided by the Department of Health's Office of Health Care Survey
- Progress Reports completed and submitted by Evergreen Healthcare related to CN #1290
- Certificate of Need historical files

## **CRITERIA EVALUATION**

The review for an amendment project is limited to only those criteria that would be affected by the amendment, provided that the amendment does not alter the basic justification for the initial approval. Based on information presented in this amendment application, the requested six-month extension of the timeline does not alter the initial justification for the project. Therefore, to obtain CN approval for this project, Evergreen Healthcare must demonstrate compliance with the relevant criteria found in WAC 246-310-220 (financial feasibility); WAC 246-310-230 (structure and process of care); and WAC 246-310-240 (cost containment).

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<sup>4</sup> During the course of the amendment application review, no public comments were submitted.

<sup>5</sup> Given that no public comments were submitted, no rebuttal comments were submitted either.

## **CONCLUSION**

For the reasons stated in this evaluation, the Evergreen Healthcare proposal requesting to modify the condition attached to Certificate of Need #1290 is consistent with applicable criteria of the Certificate of Need Program. The condition shall be modified as follows:

Evergreen Healthcare anticipates providing acute care services in the 15 additional beds by the end of January 2007. If the project is not complete by July 31, 2007, any remaining bed authorization not meeting licensing requirements shall be forfeited.

The approved capital expenditure for this project remains at \$1,224,544.

**A. Financial Feasibility(WAC 246-310-220)**

Based on the source information reviewed, the department determines that the applicant has met the financial feasibility criteria in WAC 246-310-220.

**(1) The immediate and long-range capital and operating costs of the project can be met.**

In its July 16, 2004, evaluation supporting the issuance of CN #1290, the department concluded that this sub-criterion was met based on the following factors:

- 1) the project would be financed through the hospital's board designated assets;
- 2) a review of EH's historical audited financial reports; and
- 3) a review of the hospital's projected patient utilization with all acute care beds used for acute care services. This review included proposed revenues, expenses, and net profit for EH in years 2008 through 2010.

[source: CN historical files: Initial application, Attachment 10, p87 and June 2, 2004, OHPDS analysis]

Within the amended application, there was no additional information provided that would change this conclusion. Based on the information above, the department concludes that this sub-criterion remains met.

**(2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.**

To evaluate this sub-criterion in the initial application, the department compared the hospital's proposed costs and charges to the average costs and charges of previously approved hospital applications and concluded that they are reasonable. Further, the department acknowledged that the portion of the project related to the 15 acute care beds was part of a larger construction project at the hospital. [source: CN historical files: Initial evaluation, pp15-16 and June 2, 2004, OHPDS analysis] Within the amended application, there was no additional information provided that would change this conclusion.

Based on the information provided above, the department concludes that the cost of the project identified in the amended application will not result in an unreasonable impact on the costs and charges for health services within the service area. This sub-criterion remains met.

**(3) The project can be appropriately financed.**

The approved capital expenditure associated with CN #1290 is \$1,224,544 and is solely related to the construction involved where the 15 acute care beds would be located. In the initial application, EH proposed to fund the project through tax-exempt bonds. As a public hospital district, EH has the authority to issue tax-exempt bonds to undertake capital projects. The bonds would not be issued until year 2006, therefore, EH did not provide specific documentation on the terms or the interest rate for the bonds. Within the initial application, however, EH provided documentation assuming a fixed 4.25% interest rate under a 30 year term. The department also noted that a press release by the hospital indicated the bond had received voter approval in year 2002. [source: Initial evaluation, p16]

To further ensure that EH had the funds to finance the project, in the initial evaluation the department's Office of Hospital and Patient Data Systems (OHPDS) reviewed EH's most

recent financial report (June 30, 2002). At that time, the review demonstrated that EH had the \$1,224,544 funds to finance the project.

For this amendment application, EH states that the capital costs of the project are not affected by the delays encountered in implementing CN #1290. EH provided a capital expenditure comparison demonstrating this assertion. [source: Application, p21 and August 21, 2006, supplemental information, p1]

Again, to ensure that EH continues to have the funds to finance the project, the department reviewed EH's most recent financial report (Year End 2004). The review demonstrates that EH continues to have the funds to finance the project. Further, the review shows the \$1,224,544 costs would not impact reserves, total assets, total liability or the general health of the hospital system in a significant way.

The department acknowledges that the \$120 million bond used for the larger construction project will, of course, impact the hospital. The hospital has protection from this debt by being able to collect taxes from the entities within its hospital district taxing area. In the past, the hospital district has collected enough tax revenue to more than cover the debt payments for that year.

As a result, for this amendment application, the department concludes that the proposed financing continues to be appropriate, and this sub-criterion is met.

#### **B. Structure and Process (Quality) of Care (WAC 246-310-230)**

Based on the source information reviewed, the department determines that the applicant has met the structure and process (quality) of care criteria in WAC 246-310-230.

*(1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.*

In its July 16, 2004, initial evaluation, the department concluded that a sufficient supply of qualified staff would be available or recruited to staff the additional 15 beds to be used for acute care services. [source: CN historical files: Initial evaluation, p18]

Within the amended application, there was no additional information provided that would change this conclusion. Based on the information above, the department concludes that this sub-criterion remains met.

*(2) The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.*

In the initial application, EH demonstrated that the addition of the 15 beds to its medical/surgical services would not change any existing relationships with ancillary and support services. Patients would continue to have access to the least restrictive level of acute care services at the hospital. Further, in the initial application, EH stated that it would continue to be responsible for all ancillary and support services provided to acute care

patients. Additionally, ancillary and support services would be provided under existing contracts with the appropriate vendor and the hospital. [source: Initial application, pp92-93]

Within this amended application, there was no additional information provided that would change this conclusion. This sub-criterion remains met.

- (3) *There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.*

In its July 16, 2004, initial evaluation, the department concluded that there was reasonable assurance that EH would continue to operate the hospital and the proposed hospice care center in conformance with applicable state and federal licensing and certification requirements. That conclusion was based on the following factors:

- 1) the hospital's historical compliance with applicable state licensing requirements, and continued participation under the Medicaid and Medicare program;
- 2) the home health and hospice agency's historical compliance with applicable state licensing requirements, and continued participation under the Medicaid and Medicare program;
- 3) the medical director for the hospice care center's historical compliance with applicable state licensing requirements, and continued participation under the Medicaid and Medicare program; and
- 4) the key staff of the hospital and the hospice care center's historical compliance with applicable state licensing requirements.

[source: Initial evaluation, p19]

For this amendment application, the department again reviewed the historical compliance for EH and its healthcare facilities. Further, given that EH now operates a licensed hospice care center under separate licensure from the hospital, the department also reviewed its historical compliance. Given the compliance history of all of the healthcare facilities owed and/or operated by EH and the compliance history of the key staff associated with the hospice care center, there continues to be reasonable assurance that the hospital would be operated in conformance with applicable state and federal licensing and certification requirements. [source: compliance survey data provided by the Office of Health Care Survey and the DOH professional credentialing database] As a result, this sub-criterion remains met for this amendment application.

- (4) *The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.*

In its July 16, 2004, evaluation, the department concluded that the project would promote continuity in the provision of health care with the existing providers in the community. [source: CN historical files: Initial evaluation, p20] Modifying the condition related to the timeline does not change the department's conclusion regarding this criterion. This sub-criterion remains met.

- (5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.

This sub-criterion is addressed in sub-section (3) above and is considered to remain met.

**D. Cost Containment (WAC 246-310-240)**

Based on the source information reviewed, the department determines that the applicant has met the cost containment criteria in WAC 246-310-240.

- (1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.

In its July 16, 2004, initial evaluation, the department concluded that the project was the best option for the community, resulting in the appropriate licensure of a 15-bed hospice care center and allowing the removal of the condition related to the 15 acute care beds. That approval would result in the establishment of a 15-bed hospice care center and EH's ability to use all 227 licensed acute care beds for acute care services. [source: Initial evaluation, pp21-22]

Before submitting this application, EH considered the option of "moving forward and hoping for the best." This option means that EH would continue to move forward with implementation of CN #1290 and hope the area that would house the 15 acute care beds would be complete and EH could begin using the 15 beds for acute care services by January 31, 2007, as required by the condition. However, if the unforeseen issues continued to delay the project, EH would lose the 15 acute care beds, and the facility's overall bed capacity would be reduced by 15 beds, resulting in 212 licensed acute care beds. This risk was not considered practical by EH managers, therefore, the option of "hope for the best" was dismissed. As a result, this amendment application was submitted.

The department recognizes that under WAC 246-310-570(2), the amendment application had to be submitted and an amended CN must be issued prior to project completion. As a result, to ensure the amendment review would be completed before January 31, 2007, EH had to make a decision to submit the amendment application by September 1, 2006. This amendment application was submitted on July 28, 2006, to allow time for the review and any unforeseen issues related to the review to be resolved.

Additionally the department acknowledges that EH is working toward implementation of the project approved under CN #1290. EH's progress towards completion is evidenced by the updated information provided in the quarter progress reports for CN #1290 and the Department of Health's Construction Review Services recent construction approval of the construction portion of the approved project (CRS #8368).

Based on the information provided in the amendment application related to the rationale for the modification of the condition, the department concludes that the submission of amendment application is both prudent and appropriate. Further, the amendment application was submitted under the appropriate timeline to allow a decision on the application without jeopardizing licensure of the 15 acute care beds. This sub-criterion is met.



(2) In the case of a project involving construction:

(a) The costs, scope, and methods of construction and energy conservation are reasonable; and

In the initial evaluation for this project, the department concluded that the construction costs are reasonable when compared to construction costs of recent hospital proposals. [source: CN historical files: Initial application, p21-22] Within the amended application, there was no additional information provided that would change this conclusion. Therefore, the department concludes that this criterion remains met.

(b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.

This sub-criterion is re-evaluated within the financial feasibility criterion under WAC 246-310-220(2) and is considered met.